

**Remarks**

The Office Action mailed July 13, 2005 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 40-57 are now pending in this application. It is respectfully submitted that the pending claims define allowable subject matter.

The rejection of claims 40-45, 46-52 and 55-57 under the judicial grounds of obviousness type double patenting as being unpatentable over claims 1-38 of U.S. Patent No. 6,696,969 is respectfully traversed.

U.S. Patent No. 6,696,969, as referenced in paragraph [0001] of the present specification, relates in subject matter to the present invention and is commonly owned with the present application. Under the proper analysis for obviousness type double patenting, the claims of the commonly owned Patent No. 6,696,969 must be compared with the claims of the present application, and the commonly owned patent is not prior art to the pending claims. Rather, the sole inquiry is whether the claims in the instant application would be obvious over the claims of the commonly owned patent. *See* M.P.E.P. § 804.

In the present case, there has been no showing that the claims of U.S. Patent No. 6,696,969 and the presently pending claims are not patentably distinct, and there is no showing regarding why the presently claimed invention would be obvious over the issued claims of U.S. Patent No. 6,696,969. Rather, the Office Action focuses on a single recitation of claim 40 pertaining to the fuse, states that the new claims are written in a simplified form that reduces words, and that it is obvious that reducing words in the claims would make the claims broader. In response, Applicants submit that the claims must be considered in their entirety in making an obviousness determination, and whether or not

the claims are simplified or have a reduced number of words is irrelevant to the obviousness-type double patenting inquiry. Applicants therefore request reconsideration of the double patenting rejection using the proper test. Considering only the claims of U.S. Patent No. 6,696,969 and the currently pending claims in the present application, differences are believed to be evident.

As one example, claim 1 of U.S. Patent No. 6,696,969 recites an open fuse indication device in communication with a line side conducting portion of a fuse and a load side conducting portion of a fuse, while claim 40 of the present application recites an open fuse indication device mechanically and electrically connected in parallel with a fuse. It is submitted that providing an open fuse indication device mechanically and electrically connected in parallel with a fuse is not obvious in light of an open fuse indication device being in communication with a fuse, as recited in claim 1 of U.S. Patent No. 6,696,969. As noted in Applicants' prior response, the prior art teaches indicators that do not require mechanical and electrical connection in parallel with a fuse, and at least some of the prior art indicators require neither mechanical or electrical connection. As at least this recitation has not been found in the prior art or record, it is not obvious to provide it in light of claim 1 of U.S. Patent No. 6,696,969. It is submitted that the other independent claims of U.S. Patent No. 6,696,969 and the present application may be distinguished for similar reasons.

Other differences between the claims of U.S. Patent No. 6,696,969 and the presently pending claims also exist, but Applicants will reserve further comment pending the Office's reconsideration of the rejection, and will respond fully if an obviousness-type double patenting rejection is made utilizing the proper standard.

For the reasons set forth above, Applicants request that the rejection of claims 40-45, 46-52 and 55-57 be reconsidered and withdrawn.

The rejection of claim 56 under 35 U.S.C. § 103(a) as being unpatentable over Douglass (U.S. Patent No. 5,841,337) in view of Greenberg (U.S. Patent No. 4,499,447) is respectfully traversed.

The Office Action cites Douglass for teaching all the aspects of claim 56 except an indication device connected to a primary fuse element, and cites Greenberg for teaching a fuse indication device (27) in the form of a light emitting diode (LED). It is asserted in the Office Action that it would have been obvious to incorporate the LED indicator of Greenberg into the fuse of Douglass for the advantage of better indication with the LED to provide a brighter indicator. In response, Applicants submit that the combination of the Greenberg indicator and the Douglass fuse is contradictory to the teaching of the Douglass reference. In particular, Douglass states that:

The prior art fuses utilize several different mechanisms for determining if a fuse was blown. Such mechanisms include a spring loaded mechanism for triggering a spring that moves a plunger to a more visible location when the fuse is blown, *an LED in a parallel circuit that will illuminate when the fuse is blown*, and a temperature sensing chemical located on the fuse element that is expelled when fuse element overheats. *Such mechanisms are either too expensive or ineffective to be satisfactory.*

See Douglass et al. col. 1, line 63 to col. 2, line 4 (emphasis added). Thus, the Greenberg indicator is expressly contemplated and rejected by the disclosure of Douglass as being disadvantaged. Douglass therefore teaches away from the Greenberg indicator, and the combination of Douglass and Greenberg is improper.

For at least the reasons set forth above, Applicants request the rejection of claim 56 be withdrawn.

The rejection of claims 40, 42, 46, 48-50, and 52 under 35 U.S.C. § 103(a) as being unpatentable over Douglass (U.S. Patent No. 5,841,337) in view Greenberg and further in view of Happ et al. (U.S. Patent No. 5,569,662) is respectfully traversed.

As noted above, Greenberg and Douglass is not a proper combination because the Douglass disclosure expressly teaches against the Greenberg type of indicator. Greenberg is therefore respectfully submitted to add nothing to the teaching of Douglass with respect to the present invention. Moreover, for the reasons set forth in Applicants' previous response, claims 40, 42, 46, 48, 50 and 52 are patentable over the combination of Douglass in view of Happ et al.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of claims 40, 42, 46, 48-50, and 52 as unpatentable over Douglass in view of Greenberg and Happ et al. be withdrawn.

The rejection of claims 53, 55 and 57 under 35 U.S.C. § 103(a) as being unpatentable over Douglass in view of Greenberg, and further in view of Middlehurst et al. (U.S. Patent No. 6,317,311) is respectfully traversed.

As noted above, Greenberg and Douglass is not a proper combination because the Douglass disclosure expressly teaches against the Greenberg type of indicator. Greenberg is therefore respectfully submitted to add nothing to the teaching of Douglass with respect to the present invention. Moreover, for the reasons set forth in Applicants' previous response, claims 53, 55 and 57 are patentable over the combination of Douglass in view of Middelhurst.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of claims 53, 55 and 57 be withdrawn.


The rejection of claims 41, 43-44, 47, 49, 51, and 54 under 35 U.S.C. § 103(a) as being unpatentable over Douglass in view of Greenberg and Happ et al., and further in view of Middlehurst et al. is respectfully traversed.

As noted above, Greenberg and Douglass is not a proper combination because the Douglass disclosure expressly teaches against the Greenberg type of indicator. Greenberg is therefore respectfully submitted to add nothing to the teaching of Douglass with respect to the present invention. Moreover, for the reasons set forth in Applicants' previous response, claims 41, 43-44, 47, 49, 51 and 53 are patentable over the combination of Douglass in view of Happ et al. and Middelhurst.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of claims 41, 43-44, 47, 49, 51, and 53 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



Bruce T. Atkins  
Registration No. 43,476  
ARMSTRONG TEASDALE LLP  
One Metropolitan Square, Suite 2600  
St. Louis, Missouri 63102-2740  
(314) 621-507014